

105TH CONGRESS  
2D SESSION

# H. R. 1197

## AN ACT

To amend title 35, United States Code, to protect patent owners against the unauthorized sale of plant parts taken from plants illegally reproduced, and for other purposes.

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To amend title 35, United States Code, to protect patent owners against the unauthorized sale of plant parts taken from plants illegally reproduced, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Plant Patent Amend-  
3 ments Act of 1998”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5       (a) **FINDINGS.**—The Congress makes the following  
6 findings:

7           (1) The protection provided by plant patents  
8       under title 35, United States Code, dating back to  
9       1930, has historically benefited American agriculture  
10      and horticulture and the public by providing an in-  
11      centive for breeders to develop new plant varieties.

12          (2) Domestic and foreign agricultural trade is  
13      rapidly expanding and is very different from the  
14      trade of the past. An unforeseen ambiguity in the  
15      provisions of title 35, United States Code, is under-  
16      mining the orderly collection of royalties due breed-  
17      ers holding United States plant patents.

18          (3) Plant parts produced from plants protected  
19      by United States plant patents are being taken from  
20      illegally reproduced plants and traded in United  
21      States markets to the detriment of plant patent  
22      holders.

23          (4) Resulting lost royalty income inhibits in-  
24      vestment in domestic research and breeding activi-  
25      ties associated with a wide variety of crops—an area  
26      where the United States has historically enjoyed a

1 strong international position. Such research is the  
2 foundation of a strong horticultural industry.

3 (5) Infringers producing such plant parts from  
4 unauthorized plants enjoy an unfair competitive ad-  
5 vantage over producers who pay royalties on vari-  
6 eties protected by United States plant patents.

7 (b) PURPOSES.—The purposes of this Act are—

8 (1) to clearly and explicitly provide that title  
9 35, United States Code, protects the owner of a  
10 plant patent against the unauthorized sale of plant  
11 parts taken from plants illegally reproduced;

12 (2) to make the protections provided under  
13 such title more consistent with those provided breed-  
14 ers of sexually reproduced plants under the Plant  
15 Variety Protection Act (7 U.S.C. 2321 and follow-  
16 ing), as amended by the Plant Variety Protection  
17 Act Amendments of 1994 (Public Law 103–349);  
18 and

19 (3) to strengthen the ability of United States  
20 plant patent holders to enforce their patent rights  
21 with regard to importation of plant parts produced  
22 from plants protected by United States plant pat-  
23 ents, which are propagated without the authorization  
24 of the patent holder.

1 **SEC. 3. AMENDMENT TO TITLE 35, UNITED STATES CODE.**

2 (a) RIGHTS IN PLANT PATENTS.—Section 163 of  
3 title 35, United States Code, is amended to read as fol-  
4 lows:

5 **“§ 163. Grant**

6 “In the case of a plant patent, the grant shall include  
7 the right to exclude others from asexually reproducing the  
8 plant, and from using, offering for sale, or selling the  
9 plant so reproduced, or any of its parts, throughout the  
10 United States, or from importing the plant so reproduced,  
11 or any parts thereof, into the United States.”.

12 (b) EFFECTIVE DATE.—The amendment made by  
13 subsection (a) shall apply to any plant patent issued on  
14 or after the date of the enactment of this Act.

Passed the House of Representatives October 9,  
1998.

Attest:

*Clerk.*